

**UNION PACIFIC RAILROAD COMPANY**

LAW DEPARTMENT  
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CHICAGO, ILLINOIS 60606  
FAX NO. 312-777-2065

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312-777-2047

January 22, 2003

**VIA UPS NEXT DAY AIR**

Mr. Vernon Williams, Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423-0001

**RE: Docket AB-33 (Sub-No. 198X), Union Pacific Railroad  
Company - Abandonment Exemption - In Alameda County, CA  
- Petition for Notice of Interim Trail Use**

Dear Mr. Williams:

The Union Pacific Railroad Company has received a request from the Berkeley Department of Transportation on behalf of the City of Berkeley, California for a Notice of Interim Trail Use pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 regarding that portion of the Union Pacific's right-of-way known as the Ninth Street Electric Industrial Lead from the border between the City of Berkeley and the City of Emeryville to M.P. 1.40 at the end of the Line north of Heinz Avenue in the City of Berkeley, Alameda County, California. The Union Pacific is willing to negotiate with the City of Berkeley concerning the acquisition of the subject property for trail use and supports the City of Berkeley's request to negotiate for a period of 180 days. A copy of the City of Berkeley's request is attached hereto as Exhibit "A" and hereby made a part hereof. This request for Interim Trail Use by the City of Berkeley does not include any of the trackage included in the Abandonment Exemption located in the City of Emeryville, Alameda County, California.

Ten (10) additional copies of this letter and exhibit are enclosed for the Board's use and distribution.

ENTERED  
Office of Proceedings

JAN 23 2003

Part of  
Public Record

Very truly yours,

Mack H. Shumate, Jr.  
Senior General Attorney

ENTERED  
Office of Proceedings

JAN 23 2003

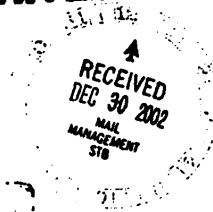
Part of  
Public Record

Enclosures

O:\ABANDONMENTS\33-198X\STB.002



**FILING FEE WAIVED**



Office of Transportation

December 20, 2002

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K St., NW, Rm 711  
Washington, DC 20423

**FILING FEE WAIVED**

206962 ENTERED  
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Public Record

Re: Union Pacific-Abandonment-Alameda County AB-33 (Sub-no. 198x)

Dear Mr. Williams:

This comment should be treated as a protest or a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of the City of Berkeley which is a city, which is hereinafter referred to as 'Commenter'.

While not taking a position on the merits of this abandonment, Commenter requests a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization between The Berkeley/Emeryville border and Milepost 1.40 at the end of the Line north of Heinz Avenue in Berkeley.

**Interim Trail Use**

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, Commenter also makes the following request:

**STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY**

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247(d), and 49 C.F.R. §1152.29, City of Berkeley is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by Union Pacific and operated by Union Pacific.

The property, known as the Ninth Street Electrical Industrial Lead extends from railroad milepost 0.00 near Powell Street in Emeryville to railroad milepost 1.40 near Heinz Avenue in Berkeley a distance of 1.40 miles in Alameda County, California. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-33 (Sub-no. 198x)

A map depicting the right-of-way is attached.

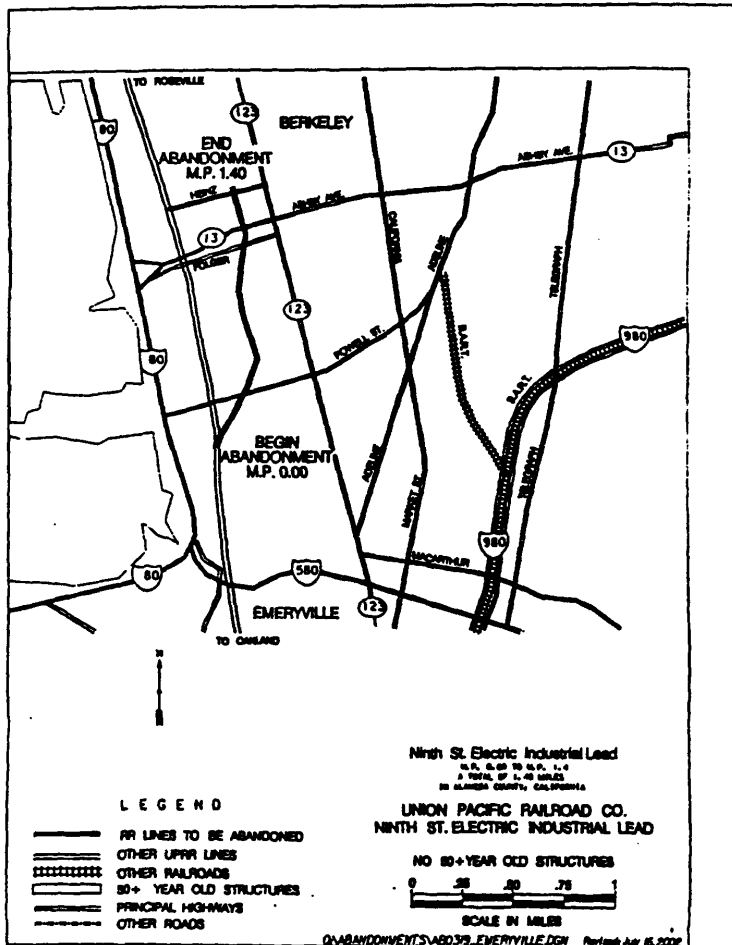
City of Berkeley acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon Union Pacific by U.S. Mail, postage prepaid, first class, this 20<sup>th</sup> day of December, 2002.

Respectfully submitted,



Carolyn Heinke  
on behalf of: The City of Berkeley



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